



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 05867-99
11 December 2000

ME [REDACTED]
16 [REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 10 November 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Since the Board found insufficient basis to remove your failures by the Fiscal Year 97, 98 and 99 Naval Reserve Line Lieutenant Commander Selection Boards, they had no grounds to set aside your discharge from the Naval Reserve on 31 July 1998. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5867-99
5420
PERS-911
10 Nov 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

VIA: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
FORM [REDACTED] USN [REDACTED]

REF: (a) BCNR memo 5420 PERS-OOZCB of 1 Nov 99
(b) Title 10, U.S. Code, Section 12465
(c) Title 10, U.S. Code, Section 14505

Encl: (1) BCNR File No. 05867-99

1. Per reference (a), enclosure (1) is returned with the recommendation that former [REDACTED] petition be denied. Former [REDACTED] is requesting that his discharge be rescinded.

2. A review of former [REDACTED] record reveals that he began his naval career as an enlisted member in April 1980. He was commissioned a Naval Reserve officer in December 1986 and served on active duty from December 1986 through March 1993. He left active duty through the Special Separation Benefit (SSB) Program in March 1993. The SSB program required that he serve three years in the Ready Reserve after separation from active duty. Our records indicate that he actively participated in the Selected Reserve from March 1993 through January 1995, at which time he transferred to the Individual Ready Reserve (IRR) at his own request.

3. Per reference (b), Promotion Selection Boards are required to consider all members of the Ready Reserve, which includes the IRR. Navy Personnel Command does not individually notify officers of eligibility, selection, or failure of selection. The eligibility zones for boards and results of the boards are published by ALNAV message. It is ultimately the individual officer's responsibility to be aware of his eligibility for promotion and to plan accordingly. Former [REDACTED] was a member of the Ready Reserve after leaving active duty in March 1993 and was properly considered by the FY-97, FY- 98, and FY-99

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
FORMER [REDACTED] USNR [REDACTED]

Reserve Line Lieutenant Commander selection boards. He failed of selection on each occasion.

4. Per reference (c), a lieutenant who has at least twice failed of selection for promotion and has completed the eight-year military service obligation must be transferred to the Retired Reserve, if eligible, or be honorably discharged. Because [REDACTED] did not have sufficient qualifying years for retirement, he was not eligible for transfer to the Retired Reserve and was, therefore, honorably discharged from the Naval Reserve on 31 July 1998. There is no provision in law or policy to waive this requirement.

5. Based on the facts as stated, we find no error or injustice in this case and recommend [REDACTED] petition be denied.

[REDACTED]

Captain, U.S. Naval Reserve
Director, Naval Reserve Personnel
Administration Division